

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 1265 - SB 1286

March 13, 2013

SUMMARY OF BILL: Requires health insurance policies to cover screening, diagnosis, and treatment of autism spectrum disorder. Prohibits an insurer from terminating coverage, or refusing to deliver, execute, issue, amend, adjust, or renew coverage to an individual solely because the individual is diagnosed with or has received treatment for an autism spectrum disorder. Autism spectrum disorder is defined as any of the pervasive developmental disorders or autism spectrum disorders as defined by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders. Health insurance policy is defined as any individual, group health insurance policy, every policy or contract issued by a hospital or medical service corporation, every individual or group service contract issued by a health maintenance organization, and every self-insured group arrangement to the extent not preempted by federal law that is delivered, issued for delivery, or renewed in this state on and after January 1, 2014, that provides hospital, surgical, or medical expense insurance or coverage.

Treatment for autism spectrum disorder is defined as evidence-based care and related equipment prescribed or ordered for an individual diagnosed with an autism spectrum disorder by a licensed physician or a licensed psychologist who determines the care to be medically necessary, including but not limited to behavioral health treatment. Applied behavior analysis is included in the definition of behavioral health treatment.

A health insurance policy cannot subject coverage of autism spectrum disorder to any limits on the number of visits an individual may make for treatment or to dollar limits, deductibles, or coinsurance provisions that are less favorable to an insured than the dollar limits, deductibles, or coinsurance provisions that apply to physical illness generally under the policy. Except for inpatient services, an insurer will have the right to review an insured's treatment plan for autism spectrum disorder annually, unless the insurer and the insured's treating physician or psychologist agree that a more frequent review is necessary. The cost of obtaining any review or treatment plan will be borne by the insurer.

To the extent that the coverage required by this bill exceeds the essential health benefits required under the federal Patient Protection and Affordable Care Act, Public Law 111-148, the specific benefits that exceed the required essential health benefits will not be required of a qualified health plan when the plan is offered in this state through the Tennessee exchange by a health carrier. The coverage requirements apply to group insurance offered under Title 8, Chapter 27, Part 2, but do not apply to accident-only, specified disease, hospital indemnity, Medicare supplement, long-term care, or other limited benefit hospital insurance policies. The bill is not to be construed as affecting any obligation to provide services to an individual under an individualized education program, or an individualized service plan.

ESTIMATED FISCAL IMPACT:

**Increase State Expenditures – Exceeds \$77,293,800/FY13-14
Exceeds \$154,587,500/FY14-15 and Subsequent Years**

**Increase Federal Expenditures - \$144,593,900/FY13-14
\$289,187,700/FY14-15 and Subsequent Years**

**Increase Local Expenditures - \$95,000/FY13-14*
\$190,000/FY14-15 and Subsequent Years***

Potential Impact on Health Insurance Premiums (required by Tenn. Code Ann. § 3-2-111): Such legislation will result in an increase in the cost of health insurance premiums for autism benefits being provided by plans that do not currently offer these benefits at the proposed mandated levels. It is estimated that the increase to each individual's total premium will be between one and three percent. A one percent increase in premium rates could range between \$50 (single coverage) and \$140 (family coverage) and a three percent increase could range between \$154 (single coverage) and \$414 (family coverage) on average depending on the type of plan.

Assumptions:

- According to the Centers for Disease Control (CDC), the prevalence of autism spectrum disorders is one in 88 children at the age of eight according to the CDC Autism and Developmental Disabilities Monitoring Network. The CDC states that most individuals are diagnosed with an autism spectrum disorder by this age.
- According to the Bureau of TennCare (the Bureau), there are 516,114 TennCare enrollees between the ages of 3 and 15. The Bureau assumes that 5,865 enrollees in this age range may suffer from an autism spectrum disorder.
- The Bureau assumes 80 percent of these enrollees potentially suffering from an autism spectrum disorder, or 4,692 enrollees, will be diagnosed and treated under the provisions of the bill.
- The Bureau assumes that the mandated applied behavior analysis (ABA) treatment will cost \$100 per hour.
- The Bureau estimates that the mandated ABA treatment will cost \$431,664,000 [4,692 x (20 hours x 46 weeks x \$100 supervised therapy)] for children between the ages of three and 15.
- According to the Bureau, there are 84,862 enrollees between the ages of 16 and 18. The Bureau assumes that 964 enrollees in this age range may suffer from an autism spectrum disorder.
- The Bureau assumes 5 percent, or 48, of these enrollees potentially suffering from an autism spectrum disorder will seek the mandated ABA treatment under the provisions of the bill.

- The Bureau estimates that the mandated ABA treatment will cost \$4,416,000 [48 x (20 hours x 46 weeks x \$100 supervised therapy)] for children between the ages of 16 and 18.
- According to the Bureau, there are 522,364 enrollees aged 19 and older. The Bureau assumes 5,936 enrollees in this age range may suffer from an autism spectrum disorder.
- The Bureau assumes one percent, or 59, of these enrollees potentially suffer from an autism spectrum disorder will seek the mandated ABA treatment under the provisions of the bill.
- The Bureau estimates that the mandated ABA treatment will cost \$5,428,000 [59 x (20 hours x 46 weeks x \$100 supervised therapy)] for adults.
- It is estimated that the total cost to the TennCare program of the mandated ABA treatment will be \$441,508,000 (\$431,664,000 + \$4,416,000 + \$5,428,000).
- Of this amount, \$152,320,260 will be state expenditures at 34.5 percent and \$289,187,740 will be federal expenditures at 65.5 percent.
- It is assumed that the State, Local Education, and Local Government plans administered as a uniform group benefit by the Department of Finance and Administration, Benefits Administration, are subject to the provisions of the bill.
- According to Benefits Administration, autism spectrum treatment as defined by the bill, including the mandated ABA treatment, will cost at least \$20,000 per member per year. The plans administered by Benefits Administration are funded by member premiums. The state contributes to State Plan and Local Education Plan member premiums.
- According to Benefits Administration, there are 48,801 covered State Plan members under 26 years of age. Benefits Administration assumes that one percent, or 488, of those members will or could be diagnosed with autism spectrum disorders.
- Benefits Administration assumes that at least 21 percent, or 102 members, will seek treatment under the provisions of the bill increasing State Plan costs by at least \$2,040,000 (\$20,000 x 102 members).
- According to Benefits Administration, the state contributes 80 percent of member premiums resulting in an increase in state expenditures of at least \$1,632,000 (\$2,040,000 x 0.80).
- According to Benefits Administration, there are 36,801 covered Local Education Plan members under 26 years of age. Benefits Administration assumes that one percent, or 368, of those members will or could be diagnosed with autism spectrum disorders.
- Benefits Administration assumes that at least 21 percent, or 77 members, will seek treatment under the provisions of the bill increasing Local Education Plan costs by at least \$1,540,000 (\$20,000 x 77 members).
- According to Benefits Administration, the state contributes 45 percent of instructional member premiums (75 percent of Local Education Plan members) and 30 percent of support staff member premiums (25 percent of Local Education Plan members) resulting in an increase in state expenditures of at least \$635,250 [(\$1,540,000 x .75 x .45) + (\$1,540,000 x .25 x .30)].
- It is estimated that the total increase in state expenditures resulting from increased premiums will be at least \$2,267,250 (\$1,632,000 + \$635,250).
- It is estimated that there are 4,300 covered Local Government Plan members less than 26 years of age. Based on the Benefits Administration assumption it is estimated that

one percent, or 43, of those members will or could be diagnosed with autism spectrum disorders.

- It is estimated that at least 21 percent, or 9 members, will seek treatment under the provisions of the bill increasing Local Government Plan costs by at least \$180,000 (\$20,000 x 9 members).
- The average local government contribution to member premiums is unknown. It is estimated that participating local governments contribute 50 percent to member premiums and that participating local government expenditures will increase by at least \$90,000.
- Any local government health plans that are not part of the state uniform group benefit will incur an estimated increase in expenditures that will exceed \$100,000 for covering the mandated benefits.
- The Department of Commerce and Insurance is responsible for regulation of the provisions of the bill. Any cost can be accommodated within existing resources without an increased appropriation or reduced reversion.
- Federal 45 C.F.R. §155.70 authorizes a state to require a qualified health plan (QHP) to offer benefits in addition to the essential health benefits. If the state-required benefits are in addition to the essential health benefits, then the state must make payments to defray the cost of the additional required benefits to an enrollee or directly to the QHP issuer on behalf of the enrollee.
- It is assumed that the state will not be subject to an increase in expenditures related to the mandated benefits under this rule. The bill expressly states that any benefits required by the bill that exceed the required essential health benefits will not be mandated for QHPs offered through the exchange.
- An enrollee is defined as an individual who has been determined eligible to enroll through the Exchange in a QHP in the individual market or an individual employed by a qualified employer who has been offered health insurance coverage by such qualified employer through the SHOP. It is assumed that the state will not be responsible for defraying the cost of the additional required benefits to QHPs offered outside of the exchange until clear guidance providing otherwise is issued by the federal government.
- The total increase in state expenditures is estimated to be at least \$154,587,510 (\$152,320,260 + \$2,267,250).
- The total increase in federal expenditures is estimated to be at least \$289,187,740.
- The total increase in local government expenditures is estimated to be at least \$190,000 (\$90,000 + \$100,000).
- The provisions of the bill apply to any policy that delivered, issued for delivery, or renewed on and after January 1, 2014; therefore, the fiscal impact in FY13-14 will be for one-half of a year resulting in:
 - State expenditures of \$77,293,755 (\$154,587,510 x 0.50);
 - Federal expenditures of \$144,593,870 (\$289,187,740 x 0.50); and
 - Local expenditures of \$95,000 (\$190,000 x 0.50).
- Private sector health insurance premium impact: The provisions of the bill will result in an increase in covered individuals receiving benefits for autism spectrum disorders. Health insurance premiums will increase to cover the costs of the additional benefits. According to the *Health Insurance Mandates in the States 2010* report by the Council for Affordable Health Insurance (CAHI), the estimated cost to health insurance for

autism benefits ranges from one to three percent of the total premiums nationwide. It is estimated that the increase in Tennessee to each individual's total premium will be similar to those nationally. Based on a 2011 report by the Fiscal Review Committee staff, a one percent increase in premium rates will range between \$50 (single coverage) and \$140 (family coverage), and a three percent increase in premium rates will range between \$154 (single coverage) and \$414 (family coverage) on average depending on the type of plan.

**Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise". The signature is fluid and cursive, with the first name "Lucian" and last name "Geise" clearly distinguishable.

Lucian D. Geise, Executive Director

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